

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AGENCE FRANCE-PRESSE

Plaintiff,

v.

PRACTICAL APPLICATIONS INC.,

Defendant.

Case No.: 1:23-cv-11469

COMPLAINT

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff Agence France-Presse for his Complaint against Practical Applications Inc, alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101 *et seq.*
2. This Court has subject matter jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).
3. This court has personal jurisdiction over Defendant because Defendant's acts of infringement complained of herein occurred in the Commonwealth of Massachusetts, Defendant's acts of infringement were directed towards the Commonwealth of Massachusetts, Defendant caused injury to Plaintiff within the Commonwealth of Massachusetts, and Defendant has a physical presence in the Commonwealth of Massachusetts.

4. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

5. Agence France-Presse (“AFP”) is a French entity headquartered in Paris, France with a North American regional headquarters in Washington, D.C.

6. Practical Applications Inc (“Practical Applications”) is a Massachusetts corporation with a business address of 8 Adele Road Woburn, MA 01801.

FACTUAL ALLEGATIONS

Agence France-Presse is a global news agency

7. AFP is a global news agency delivering fast and accurate news coverage of events happening worldwide in the videos, text, photographs, multimedia, and graphics.

8. Founded in 1835 in Paris, France, AFP is the oldest and third largest news agency in the world.

9. AFP has bureaus in over 150 countries and has its North American regional headquarters in Washington, D.C.

10. AFP disseminates approximately 4,000 news stories and approximately 3,000 photographs per day to its subscribers.

11. AFP photographs are available to license through Getty Images, which allows potential licensees an easy, on-line mechanism to properly license the photographs at issue here.

12. AFP’s livelihood depends on receiving compensation for the photographs it licenses, and the copyright protection afforded to AFP’s photographs deters would-be infringers from copying and profiting from its photographs without permission.

13. AFP is the exclusive rights holder to an image of headstones with American flags in front of them (“the Photograph”). A true and correct copy of the Photograph is attached as Exhibit A.

14. AFP registered the Photograph with the United States Copyright Office under Registration Number VA 2-170-398 with an effective date of November 6, 2019.

Practical Applications is a commercial business with online marketing

15. Defendant Practical Applications is a private company specializing in environmental engineering in the water purification and wastewater engineering industry. See <https://paih2o.com/about/>.

16. Practical Applications is the operator of the Facebook page <https://www.facebook.com/practicalapplicationsinc/> (“Defendant’s Facebook”).

17. Through its Facebook, Practical Applications promotes and advertises its services, which include instillation, engineering and maintenance of water purification systems.

Practical Applications Engages in Copyright Infringement

18. On or about March 20, 2022 AFP discovered the Photograph being used on Defendant’s Facebook (“Infringing Post”).

19. True and correct screenshots of the Photograph being displayed with the Infringing Post are attached hereto as Exhibit B.

20. AFP does not have record of the Photograph being licensed to Practical Applications, nor had AFP granted permission for Practical Applications to make a copy or publicly display the Photograph on Defendant’s Facebook with the Infringing Post.

21. On information and belief, Practical Application’s use of the Photograph was deliberate and willful because it knew or should have known that

it did not purchase a license to use the Photograph.

**FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 U.S.C. § 101 *et seq***

22. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

23. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of Plaintiff's unique and original Photograph.

24. Plaintiff is informed and believes and thereon alleges that the Defendant willfully infringed upon Plaintiff's copyrighted Photographs in violation of Title 17 of the U.S. Code, in that it used, published, communicated, posted, publicized, and otherwise held out to the public for commercial benefit, the original and unique Photograph of the Plaintiff without Plaintiff's consent or authority, by using it in the Infringing Posts on Defendant's Facebook.

25. Specifically, Defendant made an unauthorized copy and then publicly displayed the Photograph with the Infringing Post.

26. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to \$150,000 per work infringed pursuant to 17 U.S.C. § 504(c).

27. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendants.

28. Plaintiff is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- For a finding that Defendant infringed Plaintiff's copyright interest in the Photograph by copying, displaying, and distributing it without a license or consent;
- For an award of actual damages and disgorgement of all of profits attributable to the infringement as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for statutory damages against Defendant in an amount up to \$150,000 for each work infringed pursuant to 17 U.S.C. § 504(c), whichever is larger;
- For an injunction preventing Defendant from further infringement of all copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502;
- For costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- For pre judgment interest as permitted by law; and
- For any other relief the Court deems just and proper.

Dated: June 29, 2023

Respectfully submitted,

/s/ Taryn R. Murray
Taryn R. Murray, Esq.
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Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, Agence France-Presse hereby demands a trial by jury in the above matter.

Dated: June 29, 2023

Respectfully submitted,

/s/ Taryn R. Murray
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